

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**JAMES I. PRATER, et al.,  
Plaintiffs,**

**v.**

**Case No. 2:04-CV-1077  
JUDGE EDMUND A. SARGUS, JR.  
Magistrate Judge Norah McCann King**

**OHIO EDUCATION ASSOCIATION,  
Defendant.**

**ORDER**

On October 4, 2007, the United States Court of Appeals for the Sixth Circuit reversed this Court's earlier decision granting Defendant's Motion for Summary Judgment and remanded the case for further proceedings. As a result, Plaintiffs' Motion for Class Certification pursuant to Fed. R. Civ. P. 23 must be considered.

On January 22, 2008, Plaintiffs filed a Motion for Substitution of the proposed Plaintiff class representative. Plaintiffs seek to substitute John L. Wardell for Jeffrey B. Westfall, who died on November 26, 2007. Simultaneously, Plaintiffs filed a Motion for Leave to file a First Amended Complaint. The proposed amended Complaint contains no substantive revisions other than the substitution of Plaintiff class representatives.

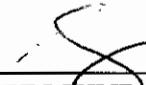
On January 29, 2008, Defendant filed a Motion to Stay ruling on the Class Certification issue "to allow [Defendant] a reasonable time to conduct discovery of the proposed substitute representative. . . ." (Doc. #94). Plaintiffs oppose the motion on the basis that it would cause undue delay and it would be unduly burdensome and duplicative. Plaintiffs note that Mr. Wardell resides in the State of Florida and has been deposed earlier in this case. According to

Plaintiffs, the record is sufficient to allow the Court to determine whether Mr. Wardell is a sufficient class representative. Defendant argues that Mr. Wardell's previous deposition did not cover issues related to adequacy of representation for the proposed class. Defendant points out that Plaintiffs have filed a supplemental memorandum supporting their Motion for Class Certification. Defendant seeks the opportunity to conduct a limited deposition of Mr. Wardell and then file a supplemental memorandum on the class certification issue.

The Court finds that a limited stay of consideration of the Motion for Class Certification to conduct further discovery is appropriate. The Motion (**Doc. #94**) is **GRANTED** to the following extent: Defendant shall depose Mr. Wardell within **two (2) weeks** of the date of this Order. The parties shall attempt to agree on a location for the deposition. If agreement cannot be reached, counsel shall contact the Magistrate Judge. Defendant may file a limited supplemental memorandum on the class certification issue within **ten (10) days** after the deposition is completed. The Court will thereafter consider the Motion to Substitute Plaintiff's class representative, the Motion for Leave to file a first amended Complaint and the Motion for Class Certification.

**IT IS SO ORDERED.**

2-26-2008  
**DATE**

  
**EDMUND A. SARGUS, JR.**  
**UNITED STATES DISTRICT JUDGE**